

The NRCB Hearing

Get Involved – Here's How



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Introduction

This guide provides an overview and explanation for the general hearing procedure used by Alberta's Natural Resources Conservation Board (the "NRCB" or the "Board"). It will assist members of the public who wish to participate (the legal term is "intervene") in an NRCB hearing. Those requiring a more detailed, legal description of the NRCB's process, should refer to the *NRCB Act* and the *Rules of Practice Regulation*.

The Purpose of the NRCB

The NRCB was established by the Government of Alberta to provide an impartial, open review process for projects that will or may affect the natural resources of Alberta. The NRCB's mandate, as established by the *Natural Resources Conservation Board Act*, is to determine whether, in the Board's opinion, these projects are in the public interest, having regard for the social, economic and environmental effects of the proposed projects.

The NRCB Organization

The NRCB is a quasi-judicial tribunal created by the *Natural Resources Conservation Board Act*. Board members are appointed by Cabinet. In addition, the Chair may select acting Board members from a list of individuals nominated by Cabinet to assist in the performance of NRCB duties.

The NRCB has a small support staff to provide legal, clerical, administrative and expert technical services.

Two coordinators are appointed from NRCB staff to oversee the process involved in each project review. If you are interested in participating in a review, contact a coordinator as early as possible. The coordinators can inform you of new developments and familiarize you with the various stages of the review process.

The Function of a Public Hearing

The public hearing allows individual members of the public, coalitions of people having a common position on a project, organized public interest groups, and federal, provincial and municipal representatives to make representations to the Board and to examine the evidence presented by other parties. Public participation helps ensure that the Board has access to relevant and reliable information from different perspectives when determining if a project is in the public interest.

The Board's process will include a public hearing in cases where the Board has determined that a hearing is appropriate or where a *bona fide* written objection has been submitted by a person whom the Board considers would be directly affected.

Making The Review Process Effective

The NRCB is concerned with the effectiveness and efficiency of the decision-making process. The NRCB is accountable to the Alberta Legislature and, ultimately, to the taxpayers of the province for the careful use of public funds. It must ensure that the project review process does not impose unnecessary costs and delays on project proponents or interveners. All participants in the NRCB process, including the Board itself, are responsible for the effective use of limited resources (both time and money). This guide includes specific suggestions on how participants can maximize the effectiveness of their participation and, at the same time, contribute to the efficiency of the NRCB process.

Obtaining Information Concerning a Review

The general content requirements of applications to the Board are set out in the *NRCB Rules of Practice*. Applicants are encouraged to place greater emphasis on those elements which are expected to be central to the decision-making process.

A review is initiated when a project proponent discloses a reviewable project to the Board. When a formal application is received, the Board publishes a *Preliminary Notice of Application* in local and regional newspapers. The notice indicates where a copy of the

application is available for viewing (usually at regional public libraries and the NRCB office). It also indicates that persons with an established interest in the reviewable project may obtain a copy of the application and asks that parties interested in participating in the review or receiving further notices concerning the project contact the NRCB.

Should you Make a Submission?

To fulfill its mandate, the Board relies on the information provided in a proponent's application and information in submissions from interested or concerned individuals, provincial and federal government departments, municipal authorities, and interest groups. Only information brought forward during the review process can be considered by the Board in its determination of the public interest.

You should make a submission if you believe that you have information that will assist the Board in determining whether the proposed project is in the public interest.

Your submission may include expert or lay evidence, a response to or critique of the application, or opinion and suggestions as to the appropriate disposition of the application by the Board.

Standing to Make a Submission

The *NRCB Act* states that status shall be granted to individuals whom the Board determines to be directly affected by the proposed project and that the Board may at its discretion recognize the status of others.

The Board has stated that all individuals or groups of individuals that wish to provide relevant evidence about an application before the Board, or ask questions of other participants, are entitled to do so. All that is required is that they register and make themselves available to participate in the public hearing. Those wishing to participate must register with the Board within the time set out in the *Notice of Hearing*.

Obtaining standing to make a submission to the NRCB should be distinguished from being eligible for funding under the Act's intervener funding provisions. Funding to assist in the preparation and presentation of a submission to the NRCB may be available to certain interveners. The Board has prepared a separate guide on this subject (*Guide to Intervener Funding*) which may be obtained on request.

The Board strongly encourages all participants intending to seek funding as a "directly affected" party to seek a determination from the Board regarding their eligibility as early as possible.

What to Include in Your Written Submission

The legal rules under which the Board operates require that parties to the process not be surprised by new or unfamiliar information during the hearing; therefore, written submissions are requested by the Board on or before a date and time specified in the *Notice of Hearing*.

The NRCB wishes to receive information that will assist it to reach a decision regarding the public interest relevant to the proposed project. A distinction should be made between information that is interesting and information which the Board must know to reach its public interest decision.

In many cases, the Board will have convened a Pre-Hearing Conference to consider preliminary and procedural matters regarding the application and issued a *Report of Pre-Hearing Conference*. This report may deal with a variety of issues including the scope of the review and major issues to be discussed at the hearing on the application. You should review this document prior to preparing your hearing submission.

It is important to ensure that your submission clearly deals with those issues that represent your key concerns regarding the application in the most effective manner.

Your written submission is the principal means for you to put information and arguments before the Board. Your participation in the hearing process may be limited to a brief summary of the written submission and responses to cross-examination by other parties.

Written submissions are read by the Board and taken into consideration when the Decision Report is prepared. *Consequently, it is essential for effective participation that your submission contain a clear and concise statement of your position on the application, the reasons for that position, and all the information required to support your position.* In addition, you may want to include reasonable alternatives to the project design as proposed, suggestions to alleviate impacts, and conditions that might be imposed on the project to satisfy the public interest should it be approved. You should keep in mind that the Board's responsibility to decide whether or not a project is in the public interest means that it must take into account the interests of all Albertans.

The following information should be included in your hearing submission:

- (a) a clear statement as to whether you believe the application should be approved or rejected and your arguments supporting that position;
- (b) a focus on a few key issues or arguments. An approach that attempts to cover all bases is not effective;
- (c) information that is essential for the Board to reach a decision

and information related to issues that are likely to have a significant impact on that decision (focus on "pertinent" information);

- (d) fully supported factual statements where possible. Avoid arguments based on unsubstantiated assumptions or intuitions;
- (e) a summary of your submission outlining the major issues to be addressed and your conclusion on each issue;
- (f) all the information you propose to present in evidence including a list of all exhibits to be filed and a copy of each exhibit. Your oral presentation to the Board (if you wish to make one) should only highlight the key points in the written material; and
- (g) an estimate of the time required for your oral presentation and any time constraints on the availability of expert witnesses.

If your participation is to be confined to cross-examination and argument at the hearing, please notify the Board, in writing, by the submission deadline date. If your submission contains a technical report or material of a technical nature, outline the qualifications of the person signing or taking responsibility for the report or material.

Finally, if your submission is lengthy, provide a copy on computer diskette. This will assist the Board to review the material and prepare its Decision Report.

Need for Legal Counsel and Experts

It is not necessary that you retain the services of a lawyer to represent your interests. However, you may wish to retain the services of a lawyer if there will be issues that involve legal complexities. In this event, you may want to consider retaining legal counsel only for those portions of your submission that require such assistance. Some applicants do retain legal counsel, at least to represent their position during the public hearing.

You may decide that the services of an expert would increase the effectiveness of a submission. Under such circumstances, you may wish to consider whether other interveners have similar interests and would wish to share the costs associated with retaining the services of an expert. Becoming aware of the intentions of other interveners may allow you to reduce your expense. The Board will circulate a copy of submission summaries for all registered parties to assist you.

Obtain clear information from any experts you choose to retain concerning the costs of their services, including the cost to appear at the hearing. If you are interested in pursuing funding to assist with the preparation and presentation of a hearing submission, please refer to the Board's *Funding For Eligible Interveners Regulation and Guide to Intervener Funding*, both of which may be obtained by contacting the NRCB.

Notice of Hearing

If a hearing on an application is to be held, a *Notice of Hearing* will be published in local and regional newspapers at least thirty days prior to the hearing date. In addition to this formal notification procedure, copies of the notice may be mailed directly to individuals who have contacted NRCB staff and expressed an interest in a particular project. The *Notice of Hearing* includes:

- (a) a brief description of the subject of the application;
- (b) the time, date, and place of the hearing;
- (c) information on how to obtain copies of the application and supporting information;
- (d) the deadline and location for filing submissions with the Board;
- (e) date, time and location of the Participant Information Session regarding the hearing (if one is to be held).

The Timing and Location of the Hearing

The NRCB attempts to hold its hearings at times and locations convenient for those who wish to participate. Scheduling of the hearing will also depend on the complexity of the project and the length of time required for adequate preparation of submissions and on the resource implications for the applicant and other parties.

Intervener Coalitions

Since participation in the NRCB process can take considerable time and effort, it may be advantageous for you to form a coalition with others sharing the same views. In addition to sharing the work load among participants, intervener coalitions can increase the efficiency of the NRCB process by reducing the number of individual submissions to be considered.

Filing Intervener Submissions

The *NRCB Rules of Practice* require that all persons wishing to intervene in a hearing must file seven copies of their submission with the Board within the time specified in the *Notice of Hearing*. (In some cases the Board may request additional copies be provided). A copy of your submission must also be provided to the applicant. *Most submissions are short, often a few pages. Where a submission is complex, you will be required to submit a summary of the major issues identified and the conclusion you have reached on each issue.* Board staff will distribute a copy of submission summaries to all registered participants for information.

Your submission must be signed (by you or your lawyer or agent) and must contain your name and address in Alberta where communications may be sent.

Ensure that your submission is filed prior to the date specified in the *Notice of Hearing*. After that date, additional material may be filed only at the request of, or with leave of, the Board. Interveners'

submissions are made available by the Board for public examination at the public locations set out in the *Notice of Hearing*.

The Conduct of the Hearing

NRCB hearings provide an open and fair public forum for the presentation and testing of technical, environmental, social, and economic evidence relating to proposed projects. They also permit the orderly expression of differing points of view by interested parties and an opportunity to present and defend evidence in support of those views. In particular, hearings allow applicants to explain the project and people affected by it to state their support or objections in detail. Since participants are expected to present their evidence and arguments as clearly and completely as possible in their written submissions, *a principal purpose of the hearing is to permit cross-examination as a means of reviewing, contradicting or explaining information, furnishing evidence, or making representations by way of argument.*

Hearings on complex projects can be costly and time-consuming for both the Board and the participants. Consequently, the NRCB is conscious of the need to ensure that, in addition to being open and fair, the public hearing process is as efficient as possible. From this perspective, *the purpose of the hearing is to provide the Board with the evidence, arguments and points of view that are necessary for it to determine whether the project is in the public interest.* The efficiency and



effectiveness of the process depends on all participants keeping this objective in mind.

Although NRCB hearings are considerably less formal than courtroom proceedings, they do provide a structured format for the presentation of information and argument. The hearing begins with opening remarks from the Board Chair. These may include a statement of the purpose of the hearing, the introduction of Board members and staff, and formal registration of participants. If required, preliminary matters such as procedural or legal issues are considered next. Each participant, beginning with the applicant, then presents evidence to the Board and responds to questions or cross-examination by other parties. Following all submissions by interveners, the applicant is permitted to present rebuttal evidence. All parties then present final arguments to the Board, summarizing the principal issues and evidence and outlining the reasons why they believe that the Board should reach a particular conclusion regarding the application. The interveners' final arguments are heard first, and the applicant is then given an opportunity to present a rebuttal. Finally, the Board Chair will close the hearing and, in most cases, announce the deferral of the Board's decision until the release of the decision report. The flow chart in Appendix A summarizes the NRCB hearing procedure.

The NRCB records the proceedings; therefore, it is important to come forward to the microphones provided, identify yourself and speak at a relaxed pace. You will be requested to provide a seating plan for any witness panels brought forward. NRCB staff are available to assist with any questions you may have throughout the hearing (they will be seated at a separate table from the Board members). Staff make an effort to be available during meals and coffee breaks. Staff will also assist you with matters of process, such as scheduling of presentations, or questions concerning evidence that a party has an interest in (for example, requesting access to review an exhibit that has been filed). Inquiries should be directed to the designated Project Coordinators.

The Role of the Applicant

Applicants are expected to address all the matters that the Board must consider to arrive at its decision. In addition to describing the technical features of the project, applicants should submit evidence and arguments regarding the social, economic, and environmental effects that are relevant to the Board's determination of the public interest. Like any other participant, the Board expects applicants to limit their presentation at a hearing to a brief description of the project and a summary of the evidence contained in the materials filed in advance of the hearing. The applicant must also provide a summary of why the

applicant believes an approval of the project is in the public interest. The applicant's role at the hearing also involves responding to questions and cross-examination from the other participants. Applicants may also seek to rebut evidence presented by interveners (or their expert witnesses) who oppose the proposed project.

The Role of Intervenors

You may participate in a hearing either to support or oppose an application, or to provide information to the Board relevant to its consideration of the public interest. Participation may involve putting detailed written submissions before the Board, or it may be limited to cross-examination of other parties and presentation of final arguments. Since the written submissions should contain the substance of interveners' evidence and argument, *a principal function of the hearing is to provide a forum for publicly challenging or corroborating these submissions in the presence of the Board.* The Board is particularly interested in the validity of the evidence before it and in the extent to which the assumptions and arguments made in submissions can be substantiated. Consequently, interveners make an important contribution at hearings through their responses to questions and cross-examination, and their role in testing the validity of submissions made by other parties.

The Role of Government

Provincial, federal and municipal government officials have participated in the NRCB's process to present information regarding social, economic or environmental matters within their jurisdiction and/or areas of expertise. In some cases, government officials can provide information about approvals likely to be required by a project proponent and the effect of these approvals on an NRCB decision. Most often federal and provincial government submissions neither support nor oppose an application. Municipal submissions may or may not state a position.

Government interventions, like those of other participants, must include the technical qualifications of the person signing or taking responsibility for a report or the material contained in it. Oral presentations must be confined to matters set out in the written submission and cross-examination limited to the scope of the evidence provided in the submission. Government officials would not be available for cross-examination about matters unrelated to their submissions or matters already decided by an approval authority. Additionally, government officials would not be required to respond to questions more properly placed before elected representatives.

Hearing Participation and Oral Presentation of Evidence

NRCB hearings are not as formal as court proceedings, although the Board does apply some rules and guidelines to maintain order, efficiency and effectiveness of the hearing process.

During the hearing, your oral presentation should highlight the key points contained in your written submission. The Board will have read all submissions and will not require a detailed reiteration. At this stage you should stress evidence that will best reflect your desired disposition of the review. **Generally the presentation of your direct evidence should not exceed 20 minutes.** Interventions that include detailed testimony and expert evidence may require more time. On application, the Board may consider providing you with more time if your particular circumstances merit such consideration. The Project Coordinators will confirm with you the time you require for your oral presentation and, based on this input, will create a tentative order and time schedule for presentations. It is important that you adhere to the time schedule.

The *NRCB Rules of Practice* establish basic guidelines for presentations at NRCB hearings. As a general rule, presentations must be made by witnesses who prepared the submission, supervised or participated substantially in its preparation, or otherwise have special knowledge of the submission. In the case of technical

material, the technical qualifications of the witness must be presented.

The *Rules of Practice* also place limits on the content of presentations. Oral presentations must be confined to matters set out in the written submission, unless the Board directs otherwise. Your submission must be available for review by all parties in advance of the hearing (a deadline for submissions is set by the Board in its *Notice of Hearing*). Finally, the Board will not hear arguments unless they are based on evidence before it.

A written submission alone is an acceptable form of participation in NRCB hearings. Oral presentation is not necessary in all circumstances. If the Board or other participants require clarification on a written submission, the party making that submission may be asked to respond to questions and should be available for that purpose. Requests of this type from other participants are channelled through the Board.

Presentations at NRCB hearings can be an effective way of highlighting important information and arguments, and testing the submissions of other parties. Appendixes B and C contain some guidelines to follow when preparing for and participating in an NRCB hearing.

Tendering Documents

You will be required to provide the Project Coordinator with a list of exhibits and one copy of each exhibit to be tendered on a date specified in the *Notice of Hearing*. *Since the NRCB process seeks to avoid surprise by requiring full disclosure of evidence and arguments prior to the hearing, documents to be entered as exhibits should generally be tendered at the same time as your written submission* (i.e., by the deadline established for those submissions). Another alternative that may be acceptable in some cases is to include the specific excerpt to be relied on with the written submission. The entire document can then be presented at the opening of the hearing if it is required to put the excerpt in context. Tendering the full document prior to the hearing is less essential if it is clearly identified in the written submission and is publicly available. In contrast, documents that are not readily available should be tendered in advance if they are to be entered as exhibits at the hearing.

Cross-Examination

Cross-examination is the questioning of a witness called by an opposing participant in the hearing, following the presentation of his or her evidence. There are three principal reasons for cross-examination:

- (a) to test evidence by challenging its soundness (e.g., scientific or technical validity), the

assumptions upon which it is based, or its logic and internal consistency;

- (b) to show that evidence presented by the opposing witness can in fact support one's own case; and
- (c) to question the opposing witness by challenging his or her professional qualifications, expertise, objectivity, direct knowledge of the particular issues before the Board, recollection of relevant events, etc.

The NRCB *Rules of Practice* state that witnesses can only be cross-examined by or on behalf of an applicant, an intervener, or the Board. Cross-examination is an important component of the NRCB hearing process because it allows participants to test conflicting evidence and competing arguments before the Board. The *Natural Resources Conservation Board Act* specifically provides that persons directly affected by a proposed project, and other persons where the Board considers it necessary, shall be given the opportunity to contradict or explain information presented by the applicant and other interveners.

As with other forms of participation in the NRCB process, cross-examination should follow certain guidelines if it is to be conducted in an effective and efficient manner. Appendix D provides some general rules and suggestions concerning cross-examination.

Final Argument

All participants have the opportunity to present a final argument to the Board. In presenting final arguments, you should clearly and succinctly state what you view as the most important issues before the Board. You should also briefly summarize the conclusion you believe the Board should reach on these issues, and on the application as a whole. Final argument should not introduce new evidence or revisit in detail the participant's submission.

The Board's Decision-Making Authority

The Board has considerable latitude in deciding on applications. It may, with prior authorization from Cabinet, grant an approval on any terms and conditions that it considers appropriate. Alternately, it may refuse to grant an approval, defer consideration of an application (on terms and conditions determined by the Board), or dispose of the application in any other way that it considers to be appropriate. In summary, the Board has authority on its own to reject or defer applications, but the approval of applications requires Cabinet authorization. That authorization may include terms and conditions imposed by Cabinet.

The Decision Report

Following a public hearing, the NRCB reviews all the evidence presented prior to reaching a decision. The decision is made public in the form of a decision report written by the Board members. The time required for its release depends on its length and complexity.

In its decision report, the Board provides background information on the project, summarizes the application and supporting information, reviews the positions of the other participants, explains its conclusions on each of the issues before it, and sets out its disposition of the application. If the application is approved, any terms and conditions imposed by the Board are stated in the decision report.

The NRCB Decision and Other Approval Processes

Approval by the NRCB does not dispense with the need to obtain any licenses, permits, approvals, or other authorizations from other government departments, agencies, or municipalities having regulatory authority over the project.

Appeals

Board decisions may only be appealed on questions of jurisdiction or law. Appeals must be made to the Alberta Court of Appeal. For an appeal to succeed, it is necessary to show that the Board had misconstrued its authority under the *Natural Resources Conservation Board Act* (e.g., did not have legal authority to make the decision) or had failed to respect the

legal requirements of procedural fairness in quasi-judicial hearings. The act contains specific provisions governing appeals.

Joint Reviews

Given the nature and size of projects the NRCB reviews, proposed projects may also be subject to review processes conducted by other boards, commissions or agencies at the federal or provincial level. The *NRCB Act* provides that the NRCB may conduct its proceeding jointly or in conjunction with these other bodies (If the proceeding involves a reviewing agency of a jurisdiction outside of Alberta, approval must be obtained from Cabinet).



Our goal as identified in our Business Plan, is to contribute toward the achievement of the sustainable development of Alberta's natural resources through determining the public interest in projects reviewed by the NRCB.

This guide describes the Board's practices at most Hearings. It is important to remember that this guide is intended to provide general information and that the Board may choose to vary the general practice on a review-specific basis.



APPENDIX A: NRCB HEARING PROCEDURE

OPENING REMARKS

- Statement of the purpose of the hearing.
- Introduction of Board and staff.
- Applicant, then participants are registered.
- Exhibits and written submissions are filed.

PRELIMINARY MATTERS

- Discussion of any procedural, legal, or similar matters.

SUBMISSIONS Participants in registration order (applicant first)

For each submission:

- Documents are registered as exhibits.
- Witnesses are introduced and credentials presented.
- The submission is highlighted by the witnesses.
- Witnesses are examined (questioned to clarify their submissions or statements):
 - by other participants, in order of registration;
 - by NRCB staff;
 - by the Board.
- Examination is re-directed (that is, additional clarifying information may be presented by the witness).

REBUTTAL Applicant only

- Applicant may submit rebuttal evidence to address points raised during the submissions of other participants. Examination by other participants is permitted, but only on the additional evidence presented.
- Interveners are not allowed rebuttal, as their submissions are made after the applicant's and they have opportunity at that time to rebut the applicant's submission.

FINAL ARGUMENT Interveners in registration order (applicant last)

- Participants may state what they believe are the most important aspects of the matters to be considered and the reasons for the conclusions they believe the Board should come to.
- Following the interveners' final arguments, the applicant has an opportunity to comment.

CLOSING

- Board Chair will usually announce deferral of the Board's decision.

REPORT

- Later, a Decision Report stating the decision and the reasons for it is distributed to all registered participants and made available to the public.

APPENDIX B: SUGGESTED PARTICIPANT CHECKLIST

Following Pre-Hearing Conference

- Become familiar with those aspects of the project application which are of interest to you.
- If you have not already done so, contact the NRCB and request to be placed on the NRCB mailing list for the project. Ask for and speak to the NRCB staff members who will be acting as Project Coordinators for the project review.
- Obtain NRCB Guide documents and NRCB Act and Regulations to familiarize yourself with the review process.
- Review *Report on Pre-Hearing Conference* regarding Preliminary and Procedural Matters.

Filing of Submission

- File seven copies with the Board and deliver one copy to the proponent.
- Provide an overview which identifies the major issues addressed in your submission and the conclusion you have reached on each issue.

- Provide a list of exhibits and one copy of each exhibit to be tendered.
- Sign your submission and include your name, address and telephone number and the identity and qualifications of any party who assisted with the preparation of the submission.
- Indicate clearly whether it is your intention to present the submission at the hearing. If you, or your witnesses have potential time conflicts, identify these prominently in your submission.
- Advise the Project Coordinators of any scheduling concerns for technical experts and witnesses.

Prior to the Hearing

- Review the overviews of other submissions to identify where you may avoid duplication or unnecessary conflict. The NRCB will provide submission summaries to all registered participants and complete intervenor's submissions will be available for public review at locations identified in the *Notice of Hearing*.

At the Hearing

- Practice your oral presentation to ensure it falls within the 20 minute guideline for direct evidence and addresses the major issues.
- If it is your intention to cross-examine the applicant or other participants, prepare your questions in advance.
- Avoid asking questions that have already been asked by other participants.
- If you intend to present final argument, start preparing this in advance of the hearing and update it throughout the hearing so you are prepared when the time comes.

APPENDIX C: POINTS FOR INTERVENER CONSIDERATION

Interveners should consider the following points during the hearing:

- Make sure you understand the mandate of the NRCB - to determine the public interest having regard to the social, economic and environmental effects. Keep it in mind throughout the process and focus on it. Emphasize issues to the Board members that you believe are important.
- Ensure your issues are relevant to the project being reviewed and structure your presentation to deal with each issue in logical sequence.
- Ensure that your position is consistent and clear. Don't leave the Board guessing about inconsistent statements.
- Don't feel that you have to deal with each issue in detail to the point of being repetitive of others. Your submission may complement that of other participants - simply note this.
- An oral presentation may not be necessary if your position and evidence are clearly stated in the written submission (the intervener should, however, be available for cross-examination on the submission if required).
- Coordinate your efforts with other interveners. This is often possible with respect to technical studies even when your positions are not exactly the same.
- Oral presentations should be limited to 20 minutes or less and highlight the most important evidence and arguments in the submission (the Board will have read your written submission in advance).
- As with your written submission, focus on a few key points.
- When there are conflicting opinions from experts, establish that for the Board, and if you are convinced you can help through additional expert information or questions, do so. Don't try to win the day on the basis of the quantity of words; stress quality.
- Be cooperative with other participants, not only in terms of procedure, but in dealing with the actual issues. If you are prepared to make a concession or to negotiate with respect to an issue, say so.
- If you see an opportunity to resolve certain issues more efficiently outside of the formal hearing process, pursue it, even if it means asking for a delay or adjournment.
- Identify for the Board those conditions that would assist in addressing your concerns if the project were to be approved.

APPENDIX D: CROSS-EXAMINATION RULES AND SUGGESTIONS:

- You should engage in cross-examination only when this will achieve a clear benefit (such as directly contradicting, or undermining the persuasiveness of the evidence or arguments of another participant).
- Cross-examination should only be done when the answer to be obtained will be directly helpful to the Board in its disposition of the application (cross-examination on minor details or peripheral matters is unlikely to be helpful).
- Refrain from cross-examination directed at submissions with which you are in agreement, since these "sweetheart cross-examinations" generally do not assist the Board and consume valuable hearing time.
- Try to be direct, particularly when dealing with technical and scientific information. The Board is after the best information it can get. Convoluted questions aimed at disclosing apparent inconsistencies in answers have limited value.
- Be familiar with the other parties' submission before engaging in cross-examination, since the question raised in cross-examination may already have been answered. There is no merit in repeating other interveners' questions.
- All parties may not reach the same conclusions; focus cross-examination on matters of fact rather than on interpretation.
- Cross-examination should not be used as a means of presenting final argument, nor should cross-examination be turned into a debate.



◆ *Cross-examination should only be done when the answer to be obtained will be directly helpful to the Board in its disposition of the application.*



NOTES



For more information please call:

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